

Department of Defense DIRECTIVE NUMBER 5030.41 June 1, 1977
Administrative Reissuance Incorporating Change 1, September 26, 1978 ASD(MRA&L)

SUBJECT: Oil and Hazardous Substances Pollution Prevention and Contingency Program

References: (a) DoD Directive 5030.41, "Implementation of National Oil and Hazardous Substances Pollution Contingency Plan," October 3, 1972 (hereby canceled)

(b) Title 40, Code of Federal Regulations, Section 1510, "National Oil and Hazardous Substances Pollution Contingency Plan" (c) Title 40, Code of Federal Regulations, Section 112, "Environmental Protection Agency Regulations on Oil Pollution Prevention"

(d) through (o), see enclosure E1. 1.

REISSUANCE AND PURPOSE 1.1. This Directive reissues reference (a) to: 1.1.1. Reflect revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (reference (b)) (hereinafter referred to as the "National Contingency Plan"), such as (1) more precise information on substances to remove discharges, (2) revised criteria to determine size of discharges, (3) an updated definition of discharge and its relationship to public health and welfare, and (4) a broader definition of the geographic area covered. 1.1.2. Implement the Environmental Protection Agency (EPA) Regulations on Oil Pollution Prevention (reference (c)). 1.1.3. Establish a Department of Defense Oil and Hazardous Substances Pollution Prevention and Contingency Program (hereinafter referred to as the "DoD Program"), to: 1.1.3.1. Reduce the likelihood of oil discharges from nontransportation-related onshore and offshore facilities into or upon the waters of the United States or adjoining shorelines. 1.1.3.2. Respond rapidly to control and minimize the damage caused by discharges of oil or hazardous substances from DoD facilities. 1.1.3.3. Provide, in a manner consistent with DoD operational requirements, resources and other assistance necessary to support Federal pollution response operations conducted in accordance with the National Contingency Plan. 1.2. Reference (a) is hereby superseded and canceled.

2. APPLICABILITY AND SCOPE 2.1. The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Unified and Specified Commands, and the Defense Agencies (hereinafter referred to collectively as "DoD Components"). 2.2. This Directive does not apply to: 2.2.1. Maintenance of navigation channels and salvage operations assigned to the Secretary of the Army by Sections 19 and 20, Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 414 and 415). 2.2.2. Marine salvage assigned to the Secretary of the Navy by Public Law 80-513 (10 U.S.C. 7361, et seq). 2.2.3. Pollution from radioactive materials resulting from nuclear accidents or incidents, which are outlined in DoD Instructions 5230.16 and 7730.12 (references (d) and (e), respectively). 2.3. Insofar as oil pollution prevention is concerned, this Directive does not apply to transportation-related onshore and offshore facilities that are subject to the authority and control of the U.S. Coast Guard (33 CFR 154-156 (reference (f))).

3. DEFINITIONS For the purposes of this Directive, the definitions contained in enclosure E2. apply.

4. POLICIES 4.1. DoD Components shall not intentionally discharge oil or hazardous substances into or upon the waters of the United States, adjoining shorelines, or waters of the contiguous zone. 4.2. Spill prevention control and countermeasure (SPCC) plans shall be developed for each installation or activity, including Government-owned, contractor-operated facilities, which has discharged or could reasonably be expected to discharge oil in harmful quantities into or upon the waters of the United States or adjoining shorelines. 4.3. Spill contingency plans shall be developed for each installation or activity, including Government-owned, contractor-operated facilities, which could discharge oil or hazardous substances into or upon the waters of the United States, adjoining shorelines, or waters of the contiguous zone. Plans should consider and be compatible with EPA or U.S. Coast Guard regional contingency plans where appropriate. 4.4. Oil and hazardous substance discharges shall be controlled to the maximum extent feasible pursuant to the National Contingency Plan (reference (b)) and the provisions of this Directive. 4.5. The use of dispersants, including water, or chemicals to emulsify, disperse, solubilize, or precipitate oil is generally prohibited except where necessary to reduce fire or safety hazards, or to protect waterfowl from floating oil. Any such activity should be under the supervision of EPA or U.S. Coast Guard representatives. 4.6. Consistent with operational requirements, support and assistance shall be provided when requested by the National or Regional Response Teams, or the On-Scene Coordinator, in accordance with the National Contingency Plan (reference (b)). 4.7. When DoD air transportation support is desired, such support is to be requested in accordance with the provisions of DoD Directive 4500.9 (reference (h)) and DoD Regulation 4515.13-R (reference (i)). When Special Assignment Airlift Missions are required, they will be authorized by the ASD(MRA&L), attn: DASD (Environment

and Safety), and will be assigned priority 1B2 in accordance with AFR 76-38/AR 59-8/OPNAVINST 4630.18D/MCO 4630.6C/DSAR 4540.9 (reference (j)).

5. PROCEDURES

5.1. DoD Component commanders shall ensure that installation spill prevention control and countermeasure (SPCC) plans are prepared, as appropriate, reviewed, signed by a registered professional engineer, and forwarded to the level required to commit the necessary resources in support of the plan. Installations shall maintain a complete copy of the approved plan for on-site review by EPA representatives during normal duty hours. SPCC plans shall be reviewed and updated at least every 3 years; sooner, if required.

5.2. Oil and hazardous substance discharges shall be reported without delay to the National Response Center (800) 424-8802, or to the nearest U.S. Coast Guard district or EPA regional office. Telephonic reports should be followed by a message as soon as practicable. Any notification of discharge should include the location, amount, time, circumstances, type, and name of discharger, if known.

5.3. The appropriate installation spill contingency plan shall be activated to effect prompt, corrective action whenever a DoD oil or hazardous substance discharge occurs.

5.4. All requests for DoD support shall be forwarded to the DoD member of the National Response Team for authentication until activation of a regional response team. After activation, DoD support may be provided in accordance with the procedures and capabilities of the DoD regional representatives and the support elements under their control. Requests for support that are beyond the capability of DoD regional representatives to provide shall be forwarded to the DoD member of the National Response Team for appropriate action.

5.5. Reimbursement for the actual expense incurred in providing removal services or support and assistance will be billed in accordance with U.S. Coast Guard Regulations (reference (f)), at full cost. Only when removal services or support and assistance are provided to U.S. Government Components solely responsible for causing a discharge of oil or hazardous substance should billings be computed and submitted in accordance with DoD Directive 4000.19 (reference (k)). When military resources are employed in assisting civil authorities under natural disaster conditions, billings should be computed and submitted in accordance with DoD Directive 3025.1 (reference (l)).

5.6. The full amount of the actual costs incurred in removing or arranging for the removal of oil or a hazardous substance shall be accumulated as contemporaneously as possible with the effort involved. Such costs include: military and civilian salaries, wages, fringe benefits and other personnel costs as well as the cost of materials, supplies, equipment and facilities used in the removal or in providing support and assistance to removal actions. Military personnel costs will be charged at the standard composite rates established by section 252 of the DoD Accounting Guidance Handbook 7220.9-H (reference (m)); civilian personnel charges will be based on actual time worked, priced at 129% of the base pay rate to cover leave and employer's contributions as prescribed in section 230 of the Handbook. The actual cost incurred by the United States Government is subject to recovery pursuant to 33 U.S.C. 1321 (reference (c)) from the owner or operator responsible for the discharge.

6. RESPONSIBILITIES

6.1. The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), or his designee, shall have the principal staff responsibility for the administration of this Directive and shall:

6.1.1. Designate the principal DoD representative to the National Response Team, as set forth in the National Contingency Plan (reference (b)).

6.1.2. Coordinate the implementation and execution of the DoD Program with the DoD Components and other elements of the Office of the Secretary of Defense, and with other Federal Agencies, to assure an effective response to the National Contingency Plan (reference (b)).

6.2. The Assistant Secretary of Defense (Public Affairs), or his designee, shall be responsible for all public affairs matters when a DoD activity or unit becomes involved in an oil or a hazardous substance discharge incident of national or international significance. When the discharge results in activation of the National Response Team or involves substantial numbers of DoD personnel or equipment, the Assistant Secretary of Defense (Public Affairs) may designate a DoD public affairs official to coordinate public affairs activities.

6.3. The Director of Defense Research and Engineering, or his designee, shall:

6.3.1. Identify, coordinate, and direct research as necessary to control discharges of oil and hazardous substances from military materiel, weapons systems, or military operations.

6.3.2. Approve and coordinate such research within DoD and with other Federal Agencies.

6.4. The Secretaries of the Military Departments, Directors of Defense Agencies that manage real property, and Commanders of Unified and Specified Commands or their designees, shall:

6.4.1. Implement the policies and procedures in this Directive to assure that SPCC plans and spill contingency plans are developed for each installation as required by section 5.

6.4.2. Undertake approved research necessary to prevent and control discharges of oil and hazardous substances caused by military operations.

6.4.3. Identify those projects required to implement SPCC plans, as provided for in OMB Circular A-106 (reference (n)). Funds shall be programmed and budgeted so that approved spill prevention projects will be accomplished on an orderly and timely basis.

6.4.4. Designate representatives to serve as alternate members of the National Response Team in support of the principal representative. The Secretary of the Army shall designate one additional alternate member to represent the civil works function of the Corps of Engineers. The Secretary of the Navy shall designate one additional alternate member to represent the Commandant of the Marine Corps.

6.4.5. Designate representatives to serve as DoD members of regional response teams, as required by the National Response Team.

6.4.6. Designate a communications or operations office to receive and act upon requests for assistance in support of the National Contingency Plan, such offices to be capable of receiving communications 24 hours each day.

6.4.7. Forward copies of reports of notification, originating from DoD activities, of medium or major discharges of oil and hazardous substances, as defined in the National Contingency Plan. Such reports will be sent the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) to arrive at the earliest practicable time after detection of the discharge. It is not intended that this provision generate a new report requirement but that an information copy of the established notification report be furnished.

7. ENVIRONMENTAL CONSIDERATIONS Actions taken to contain and remove discharged oil and hazardous substances are usually emergency actions and need not be assessed to determine the necessity for preparing an environmental impact statement. A proposed plan for the final disposition of the collected material is usually not an emergency action; these plans will be assessed in accordance with DoD Directive 6050.1 (reference (o)).

8. EFFECTIVE DATE AND IMPLEMENTATION

8.1. This Directive is effective immediately. Forward three copies of implementing regulations to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) within 180 days.

8.2. Forward names, organizations, and telephone numbers of the representatives specified in 6.4.4. to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) within 30 days. Information specified in 6.4.6., including telephone numbers and electronic message designations, shall be forwarded within 60 days. Information on representatives and communications offices shall be kept current through appropriate notifications.

Enclosures - 2 1. References, continued

2. Definitions

E1. ENCLOSURE 1 REFERENCES, continued

(d) DoD Instruction 5230.16, "Nuclear Accident and Incident Public Affairs Guidance," August 8, 1967

(e) DoD Instruction 7730.12, "Notification Procedures for Accidents and Significant Incidents Involving Nuclear Weapons, Reactors, and Radioactive Materials (FOUO)," August 1, 1976

(f) Title 33, Code of Federal Regulations, Sections 153-156, "Coast Guard Regulations on Oil Spills"

(g) Public Law 92-500, "Federal Water Pollution Control Act Amendments of 1972," Section 311 (33 USC 1251, et seq)

(h) DoD Directive 4500.9, "Transportation and Traffic Management," June 28, 1976

(i) DoD Regulation 4515.13-R, "Air Transportation Eligibility," February 6, 1975, authorized by DoD Directive 4515.13, October 30, 1970

(j) Joint Regulation AFR 76-38/AR 59-8/OPNAVINST 4630.18D/MCO 4630.6C/DSAR 4540.911, "Military Airlift Command -- Requirement Submissions, Space Assignments and Allocations, and Procedures," August 13, 1976

(k) DoD Directive 4000.19, "Basic Policies and Principles for Inter-Service, Interdepartmental and Interagency Support," March 27, 1972

(l) DoD Directive 3025.1, "Employment of Military Resources in Natural Disaster Emergencies within the United States, its Territories and Possessions," August 30, 1971

(m) DoD Handbook 7220.9-H, "DoD Accounting Guidance Handbook," July 1972, authorized by DoD Instruction 7220.9, July 12, 1971

(n) Office of Management and Budget Circular A-106

(o) DoD Directive 6050.1, "Environmental Considerations in DoD Actions," March 19, 1974 1. Available through normal publications channels.

E2. ENCLOSURE 2 DEFINITIONS

E2.1.1. Discharge. Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping. Discharges, as used in this Directive, do not include those which are within the limits and criteria of appropriate Federal or State permits.

E2.1.2. Oil. Oil of any kind or form, including but not limited to petroleum, fuel oil, sludge, oil refuse, vegetable oil, animal fat, and oil mixed with wastes other than dredged materials.

E2.1.3. Waters of the United States. The navigable waters of the United States; tributaries of navigable waters of the United States; interstate and intrastate lakes, rivers and streams. E2.1.4. Contiguous Zone. The entire zone, contiguous to the territorial sea, established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone. E2.1.5. Hazardous Substances. A material, other than oil, which, when discharged in any quantity into or upon waters of the United States, adjoining shorelines, or waters of the contiguous zone, presents an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches. This definition will apply to the DoD Program until such time as a definitive list of hazardous substances is issued pursuant to Section 311(b)(2) of the Federal Water Pollution Control Act, as amended (reference (g)). E2.1.6. Harmful Quantities. That quantity of oil which is harmful to public health or welfare; or violates applicable water quality standards; or causes a film, sheen, or discoloration of the water surface or adjacent shorelines; or causes a sludge or emulsion to be deposited beneath the water surface or upon adjacent shorelines. A direct discharge of oil from a properly functioning vessel engine is not deemed to be harmful; but such oil accumulated in a vessel's bilge and subsequently discharged shall not be so exempt. E2.1.7. Installation Spill Control and Countermeasure (SPCC) Plan. A plan, prepared in accordance with good engineering practice, which establishes, for a specific DoD installation, procedures to prevent oil discharges or to minimize the potential for oil discharges, and which has the full approval of management at the level to commit the necessary resources to support the plan. E2.1.8. Installation Spill Contingency Plan (ISCP). A plan which establishes, for a specific DoD installation, procedures for (1) reporting, containing, and removing oil or hazardous substance discharges caused by the specific installation; and (2) responding to requests by the Regional Response Team for support or assistance within the Federal region.